IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

MFA.No. 778 of 2000()

OP (MV) NO.1029/1996 of MOTOR ACCIDENTS CLAIMS TRIBUNAL.TIRUR DT.14.3.2000
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APPELLANTS: PETITIONER
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1. **SOUDAMINI AMMA, AGED 44 YEARS,**
   W/O. V.GANGADHARAN NAIR,
   CHARAPARAMBATH, P.O. PAYIMBRA,
   VIA. KURUVATTOOR, KURUVATTOOR AMSOM,
   DESOM.

2. **SAJITHA, AGED 24 YEARS,**
   D/O.V.GANGADHARAN NAIR,
   CHARAPARAMBATH OF -DO- -DO-

3. **SHEENA, AGED 22 YEARS, D/O. V.GANGADHARAN NAIR,**
   CHARAPARAMBATH OF -DO- -DO-

4. **SUJEESH, AGED 20 YEARS,**
   S/O.GANGADHARAN, NAIR,
   CHARAPARAMBATH OF -DO- -DO-

BY ADV. SRI.N.JAMES KOSHY

RESPONDENTS: RESPONDENTS
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1. **C.MOIDEEN, S/O.MOIDU, VEGETABLE STORES,**
   STALL NO.B2, MARKET – TIRUR,
   MALAPPURAM DISTRICT, OWNER OF MINI
   LOFFY KL 10/A 1638.

2. **MOHAMMED KUTTY, S/O. KUTTY HASSAN,**
   AGED 29 YEARS, MILAMPAD HOUSE,
   NIRAMARUTHOOR, TIRUR (DRIVER OF MINI LORRY)

3. **UNITED INDIA INSURANCE CO. LTD.,**
   BRANCH D- SUNITHA BUILDING, II FLOOR
   DB ROAD, R.S.PURAM, COIMBATORE 641 002, POLICY
   NO.170204/0/31/21/7855/93.

BY ADV. SRI.MATHEWS JACOB (SR.)) R3
SRI.P.JACOB MATHEW)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 28/05 /2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No. 778 of 2000

Dated this the 28th day of May, 2007

Judgment

Koshy, J.

Husband of the first respondent died in a motor accident due to the negligence of the driver of the vehicle insured by the third respondent insurance company. His widow and three children filed the claim petition claiming Rs.5,00,000/- as compensation. According to the claimants, the deceased was a plastic mould worker earning Rs.3,000/- per month. PW1 gave evidence to that effect. No counter evidence was adduced, but, in the absence of data, the tribunal fixed Rs.1,400/- as the monthly income and Rs.1,000/- was taken as the loss of dependency. It is true that when second schedule was framed notional income of Rs.1,250/- per month was fixed for a non-earning person. Deceased was a technical worker of plastic mould. The accident occurred on 16.1.1994. Considering the time of accident and considering the fact that he was maintaining a family consisting of his wife and three children, we fix the monthly income at Rs.1,800/- and fix Rs.1,200/- as the

loss of dependency. The deceased had completed the age of 50 at the time of accident. The tribunal has taken 11 as the multiplier. So, the compensation for loss of dependency will be 1200 x 12 x 11 = Rs.1,58,400/-. The tribunal granted only Rs.1,32,000/- for loss of dependency. So, the additional compensation payable for loss of dependency will be Rs.26,400/-. The tribunal has granted just and reasonable compensation under other heads. The above amount of additional compensation of Rs.26,400/- should be deposited by the third respondent insurance company within three months from the date of receipt of a copy of this judgment with 9% interest from the date of application till deposit. On deposit of the amount, the first appellant is entitled to withdraw the same.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.778/2000

JUDGMENT

Dated:28th May, 2007